Financial Services Commission of Ontario

STATEMENT OF PRIORITIES

June 2009

Introduction

This is the twelfth Statement of Priorities for the Financial Services Commission of Ontario (FSCO). It provides an environmental scan of the financial services sector, outlines proposed strategic priorities for the coming year and notes recent progress on significant projects. The statement also focuses on current challenges facing the regulated sectors in these times of global financial uncertainty and economic volatility.

FSCO has a flexible planning process that allows us to respond effectively to current financial conditions. It is important that our organization be adaptable and prepared for change. FSCO is able to adjust its initiatives and projects as conditions change and as our interactions with consumers, stakeholders, the Ministry of Finance and the government express a need for change. FSCO will continue to interact with and update its stakeholders, which include consumers, pension plan beneficiaries, industry and various members of the regulated sectors, as needed during the year. We anticipate that our positive relationships will grow stronger as we work together to meet the challenges of the current economic environment.

FSCO has a well-established and effective relationship with the Ministry of Finance. Under the Financial Services Commission of Ontario Act, 1997 (FSCO Act), the Commission is able "to make recommendations to the Minister on matters affecting the regulated sectors." Consistent with the Act, FSCO will continue to work with the Ministry on appropriate ways to meet the challenges facing the regulated sectors. FSCO also works with the Ministry to implement changes to legislation and regulations that have been identified as priorities by the Ministry and the government.

FSCO must demonstrate that we are prudent fiscal managers of the funding we receive. Consistent with FSCO's funding principles; we have adopted the expenditure restraint measures that have been identified by the provincial government.

Ontario continues to modernize its business and financial regulatory activities to maintain a healthy business climate during these current financial conditions.

FSCO's Mandate, Vision and Values

During the last year, FSCO undertook a comprehensive review of its mandate and vision statements as part of its planning process. Following the review, FSCO staff developed a new mandate and vision, as well as identified three new strategic priorities. The mandate was revised to reflect the language in the FSCO Act. FSCO remains committed to consumer protection and supporting a healthy and competitive financial services industry. In early 2009, FSCO met with stakeholders from all of its regulated sectors as part of its annual planning process. These meetings helped to inform the direction of our initiatives and projects for the coming year.

Our Mandate

To provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors.

Our Vision

To be a progressive and fair regulator working with its stakeholders to support a strong financial services sector.

Our Values

Organizations reflect the shared values of their members. FSCO is committed to the values set out below.

Professionalism	Strive to achieve the highest standards of behaviour, competence and integrity in our work.
Fairness	Strive to deal with stakeholders in an even-handed manner and demonstrate fairness in the workplace.
Equity	Strive to balance the interests of the public, including consumers and regulated stakeholders.
Accountability	Ensure that the policies and objectives of the provincial government are upheld.
Excellence	Strive to do the best in everything FSCO does.
Respect	Value and treat individuals with respect and dignity in everything FSCO does.
Teamwork	Work together as a team in serving consumers, the government and stakeholders.

Environmental Scan

Each year FSCO identifies current and future strategic priorities that will guide its activities toward the achievement of its objectives. For this process to be effective, external factors affecting the financial services industry must be considered. FSCO takes into account the following challenges:

Uncertain Market Conditions

The global economy is currently in a period of unprecedented volatility. Systemic issues arising in the economy have had a negative effect on the financial services sector, including insurance, pension plans and lending institutions. The complexity of the economy is impacted by the increasingly interrelated and interdependent nature of the various financial sectors. This means that poor economic conditions in one sector can adversely affect other sectors on a global scale.

The Ontario economy faces an increasingly challenging and uncertain global economic environment. The cyclical nature of the financial markets together with the unpredictability imposed by current market conditions have made it difficult to predict changes and shifts in the sectors regulated by FSCO. It is critical that we, as the regulator, remain flexible in our ability to respond to the financial environment.

Consumer confidence is an important benchmark in determining the health of an economy. Public confidence in the marketplace falls when markets are uncertain. In this unpredictable market, consumers have experienced some unanticipated risks, which have resulted in a decline in consumer confidence and risk tolerance. Consequently, consumers and stakeholders may express reduced confidence in the ability of governments and regulators to safeguard the financial system.

Regulators must ensure that adequate protections are maintained and consumers are made aware of the risks the current market might pose. Consumers need to play an active part in learning about their rights and responsibilities for their financial decisions.

Regulatory Approach

FSCO recognizes its role within the financial services industry in these unprecedented times. The regulated sectors look to FSCO for appropriate and efficient regulatory responses to the realities of the current environment and to develop risk-based strategies to address these conditions.

In these challenging times, it is essential that all regulators have a firm grasp of market realities and be vigilant in discharging their responsibilities. Also, we expect the financial institutions we regulate to do their part to maintain high standards of diligence in their oversight roles.

FSCO is taking into account other variables that impact on its responsibilities as a regulator. They include:

- Focusing compliance and enforcement activities on those risks that are most directly related to the current economic and financial services climate.
- Emphasizing governance as a major component of risk analysis and assessments.
- Ensuring that financial services providers have adopted practices, policies, procedures and systems based on recognized financial sector governance standards.
- Identifying and addressing risks to regulatory objectives in the area of market conduct by using proven tools to assess market conduct of financial services providers.
- Adopting refined methods for the regulation of insurance, pension plans, credit unions/caisses populaires and mortgage brokerages based on the risk-based approach to regulation.
- Improving the clarity of regulator's roles in similar federally and provincially regulated activities.

While continuing to maintain our core business activities, FSCO has directed some of its resources to address the current economy. For example, solvency monitoring of regulated financial institutions and pension plans has been increased. In addition, the market practices of insurance companies are being monitored to ensure that companies maintain consumer protection standards.

We recognize our responsibility and commitment to our stakeholders to exercise care and to be accountable for the use of resources entrusted to us. While this plan outlines the priorities and initiatives of FSCO over the next year, current economic conditions may cause us to re-visit our planned activities.

FSCO's Strategic Priorities

FSCO is guided by its newly established strategic priorities. As each is important, FSCO's strategic priorities are not ranked in any particular order:

- Conduct FSCO's activities in accordance with risk-based principles.
- Continuous improvement in the delivery of our services.
- Foster a coordinated national approach to regulatory issues.

FSCO believes these strategic priorities and their associated initiatives, which are outlined on the following pages, will have a positive impact on consumers, pension plan beneficiaries and industry stakeholders.

A large portion of FSCO's core activities are not specifically outlined in the Statement of Priorities. These include vital services and protections for Ontario residents. This statement focuses on new activities or changes to existing activities.

At its inception, FSCO adopted a culture of transparency, partnership and dialogue. FSCO continues to benefit from strong collaboration with all of its stakeholders.

As expressed in our strategic priorities, FSCO is committed to maintaining its well-established culture of risk-based regulation. Ensuring legislative and regulatory compliance in the sectors we regulate is important. As a result, our systems and resources are directed toward areas that pose the greatest risk. FSCO also expects the financial services industry to have in place effective industry responses to problems as they arise in these challenging times.

FSCO recognizes that our regulated sectors have had to streamline their businesses and curtail their expenditures. FSCO is guided by established funding principles that strive to provide value-for-money to its stakeholders and ensure that efficient and quality services are delivered.

Recently, the government announced measures to restrain spending on public salaries and to freeze the current size of the Ontario Public Service. The government has also implemented restraints on travel, print advertising and the use of IT consultants. FSCO is committed to managing its budget and expenditures in a prudent manner, and has also adopted these expenditure restraint measures.

These are unprecedented times; nevertheless, there is strong leadership and commitment from provincial governments as well as regulators to work together through these challenges. As a financial services regulator, FSCO will continue its vigilance to ensure that consumers, pension plan beneficiaries and other stakeholders continue to be treated fairly in accordance with the law and their contracts.

FSCO in Profile

FSCO is a regulatory agency established under the Financial Services Commission of Ontario Act, 1997.

Section 11 of the FSCO Act requires FSCO to deliver to the Minister of Finance and publish in *The Ontario Gazette* (by June 30th of each year), "a statement setting out the proposed priorities of the Commission for the fiscal year in connection with the administration of this Act and all other Acts that confer powers on or assign duties to the Commission or the Superintendent; and a summary of the reasons for adoption of the priorities."

FSCO is comprised of three parts: the five-member Commission; the Superintendent of Financial Services and staff; and the Financial Services Tribunal. FSCO regulates insurance, pension plans, loan and trust companies, credit unions and caisses populaires, mortgage entities and co-operative corporations in Ontario.

As of March 31, 2009, FSCO regulated or registered 382 insurance companies, 7,908 pension plans, 200 credit unions and caisses populaires, 56 loan and trust companies, 1,335 mortgage brokerages, 2,282 mortgage brokers, 8,103 mortgage agents, 1,602 co-operative corporations, as well as approximately 41,500 insurance agents, 4,079 corporate insurance agencies and 1,361 insurance adjusters.

Our Strategic Priorities and Activities

The following section lists FSCO's three strategic priorities and their associated activities.

FSCO identified the activities to be included in this statement as they meet the challenges currently facing the financial services sector and, in our view, address the financial realities of the current economy.

- **Conduct FSCO's activities in accordance with risk-based principles**

  - Upgrade the licensing and compliance information systems to better identify companies and intermediaries that pose a risk of loss to the consumers and businesses using the companies' and intermediaries' financial services.

  - Enhance the functionality of the current pension database to provide expanded pension plan information and introduce electronic filing for selected applications and filings.

  - Continue to work on the enhancement of auto insurance regulatory data.

  - Undertake a study of closed bodily injury claims, in partnership with automobile insurers, to provide a more detailed analysis of the types of injuries, costs and other factors contributing to automobile insurance claims in Ontario.

  - Establish a protocol for the processing and payment of Statutory Accident Benefits Schedule (SABS) claims by the Motor Vehicle Accident Claims Fund (MVACF) and subsequent recovery of MVACF costs from the auto insurance industry in the event of an insolvent insurer.

  - Closely monitor the implementation of the International Financial Reporting Standards. Also, work with stakeholders to ensure they are aware of the accounting changes and of their obligations.

  Work with the Ministry of Finance and FSCO stakeholders to:

  - Implement changes to the current automobile insurance system arising from the Superintendent's Five-Year Review based on direction from the Minister of Finance.

  - Implement the Joint Forum framework on harmonized point of sale disclosure for Individual Variable Insurance Contracts (IVICs, also known as segregated funds) and mutual funds to ensure consumers are provided with easily understandable information on the risks and benefits of these investment products at the time of purchase.

- **Continuous improvement in the delivery of our services**

  - Identify opportunities to enhance tracking of pension inquiries and complaints to ensure pension plan beneficiaries receive timely and accurate responses to inquiries and/or complaints.

  - Improve front-line regulatory services by streamlining the application process for Defined Benefit pension plans.

  - Identify opportunities to enhance stakeholder engagement in the pension policy development process.

  - Work with automobile insurance stakeholders to make the rate filing approval process more efficient, effective and transparent.

  Work with the Ministry of Finance and FSCO stakeholders to:

  - Provide support in the development of legislative changes resulting from the government's announcements on solvency funding relief for Ontario pension plans and other initiatives involving pension plans.

  - Provide input into the development of any legislation and/or regulations that may be adopted as a result of recommendations from the Ontario Expert Commission on Pensions (OECP) report.

  - Implement any regulatory changes following the proclamation of amendments to the Credit Unions and Caisses Populaires Act, 1994. This work will be carried out in cooperation with the Deposit Insurance Corporation of Ontario (DICO).

  - Identify opportunities to streamline the regulatory regime under which co-operatives currently operate through the co-operative sector liaison committee.

Foster a coordinated approach to regulatory issues

FSCO supports the development of harmonized regulatory solutions through participation in the Joint Forum of Financial Market Regulators (Joint Forum), the Canadian Association of Pension Supervisory Authorities (CAPSA), the Canadian Council of Insurance Regulators (CCIR), the Canadian Insurance Services Regulatory Organizations (CISRO), the General Insurance Statistical Agency (GISA) and the Canadian Automobile Insurance Rate Regulators (CARR).

FSCO is participating with these national organizations as a member of, or in some cases as lead of, committees and project teams that are mandated to undertake the following initiatives. This list represents key projects, particularly those that deal with the current financial environment.

Joint Forum

- Examine the responsibilities of investment product manufacturers, intermediaries and consumers in ensuring that consumers are offered suitable products and are able to make informed decisions.

- Develop and disseminate a publication that will provide information on the various compensation funds for the purchase of financial products and services.

- Coordinate regulatory efforts on consumer information and education, including exchanging information on best practices in delivering information and partnering with other organizations.

- Develop mechanisms to exchange information, with other regulators and Joint Forum stakeholders, on risks to consumers within the financial system.

- Develop mechanisms to allow for more effective sharing of information on regulatory enforcement issues and actions across sectors and jurisdictions.

CCIR

- Encourage the insurance industry to develop and implement sound governance practices, standards and guidelines within their organizations.

- Complete the national expansion of a complaint data reporting system based on the system developed for the Autorité des marchés financiers (AMF) and FSCO to support a risk-based approach to regulation.

CAPSA

- Finalize a proposed new agreement to establish clear rules for the administration and regulation of multi-jurisdictional pension plans.

- Examine issues related to the application of the "prudent person" rule, giving consideration to both the assets and liabilities of pension plans to enhance protection for pension plan beneficiaries.

Report Back on Key Initiatives from 2008

FSCO's Statement of Priorities includes a report on the progress of key initiatives identified in the previous year's statement and their intended benefits to stakeholders and the regulatory system. FSCO revised its priorities for this year's statement. This section of the report reflects previous priorities:

I. Promote a coordinated national approach to regulatory issues.

II. Enhance the risk-based approach to regulation.

III. Review and recommend amendments to the regulatory framework to keep pace with changes in the marketplace.

IV. Improve delivery of services.

Many of FSCO's initiatives are complex, span several years and involve various partners, such as industry associations, national organizations of regulators, and the federal and provincial governments. Where work continues on these initiatives, FSCO is only reporting back on milestones that have been achieved from the 2008 Statement of Priorities.

I. Promote a coordinated national approach to regulatory issues

FSCO continued to work with other Canadian regulators in coordinating regulation of the financial services industry at the national level through the following activities:

Joint Forum

- Released a framework for point of sale disclosure for mutual funds and Individual Variable Insurance Contracts (IVICs). The Joint Forum will continue to monitor developments as the CCIR and the Canadian Securities Administrators (CSA) implement the framework. Full implementation of the framework will result in consumers receiving easily understandable information, at the time of purchase, on the risks and benefits of purchasing mutual funds and IVICs.

- Coordinated regulatory efforts on consumer information and education by meeting with representatives from the pension, insurance and securities sectors in fall 2008. In addition, the Joint Forum jointly sponsored a financial literacy conference with the Financial Consumer Agency of Canada and Social and Enterprise Development Innovations.

- Conducted a review of the guidelines for Capital Accumulation Plans (CAPs) released by the Joint Forum in 2004, in an effort to measure the success of their implementation. Surveys of CAP sponsors, service providers and members have been completed and a final report with the results of the review will be presented to the Joint Forum at its spring 2009 meeting.

CCIR

- Released a paper that made recommendations on issues surrounding the incidental selling of insurance. CCIR designated a Standards of Practice Committee as a venue for providing feedback on the paper, addressing issues raised therein, and monitoring progress.

CAPSA

- Initiated a consultation with pension stakeholders across Canada on a proposed new agreement to establish clear rules for the administration and regulation of multi-jurisdictional pension plans

- Established a Prudent Investment and Funding Committee to examine issues related to the application of the "prudent person" rule, giving consideration to both the assets and liabilities of pension plans, to enhance protection for pension plan beneficiaries. This committee will also develop a common approach to pension plan funding policies, recognizing the link to fund governance to enhance the supervision and protection of pension plan assets.

II. Enhance the risk-based approach to regulation

- Created a plan for the development and roll-out of a national complaint data reporting system based on the system developed for the AMF and FSCO. This will help ensure the consistency and accuracy of complaint data and allow regulators to extract both specific and aggregate data from the system.

- As a member of GISA, FSCO worked on a questionnaire to assess the risk of non-compliance with requirements for the submission of auto insurance statistical data. The findings and best practices for submission of quality statistical data identified from responses to the questionnaire were presented to the insurance industry in January 2009.

- Implemented the Contribution Monitoring Program that monitors the remittance of contributions to defined benefit pension plans to improve protection for pension plan beneficiaries.

- Worked on a project that aims to identify new sources of information, evaluate the financial strength of pension plan sponsors and assess the feasibility of incorporating such information in the risk review process.

- Consulted with stakeholders to identify and explore options for streamlining the processing of defined contribution pension plan transactions.

- Reviewed data currently requested in pension plan regulatory filings to ensure that appropriate data is being requested. In addition, opportunities for electronic filings by pension plans were examined in order to modernize the filing process.

III. Review and recommend amendments to the regulatory framework to keep pace with changes in the marketplace

- As a member of GISA, FSCO participated in meetings on regulatory data needs and reviewed a draft report on statistical plan data.

- Submitted a report to the Minister of Finance on a five-year review of the automobile insurance system. FSCO had invited stakeholders to provide feedback to the Superintendent on Ontario's automobile insurance system.

Worked with the Ministry of Finance and FSCO stakeholders to:

- Provide assistance and support as needed to the OECP in its examination of legislation governing the funding of defined benefit pension plans, the rules related to pension deficits and surpluses and other issues related to the security, viability and sustainability of the pension system in Ontario.

- Review the adequacy of statutory accident benefits.

- Implement regulations, educational standards and licensing requirements under the Mortgage Brokerages, Lenders and Administrators Act, 2006. The legislation came into full effect on July 1, 2008.

IV. Improve delivery of services

- Conducted a range of outreach activities across the province that provided information to consumers and other stakeholders about FSCO's dispute resolution services.

- Developed and distributed material for consumers to raise public awareness of the consumer protection measures contained in the new Mortgage Brokerages, Lenders and Administrators Act, 2006.

The Financial Services Tribunal

The Financial Services Tribunal is an independent, adjudicative body composed of nine to 15 members (14 members as of April 1, 2009), including the chair and two vice-chairs of the commission.

The Tribunal has exclusive jurisdiction to exercise the powers conferred under the FSCO Act and other acts that confer powers on or assign duties to the Tribunal. It also has exclusive jurisdiction to determine all questions of fact or law that arise in any proceeding before it.

As well, the Tribunal has authority to make rules for the practice and procedure to be observed in a proceeding before it, and to order a party to a proceeding before it to pay the costs of another party or the Tribunal's costs of the proceeding.

For the year ahead, the Tribunal has identified the following priorities:

- Continue to ensure that appropriate expertise is available and allocated to staff panels appointed to hear Tribunal matters, including the retention of qualified experts and the provision of supplementary training.

- Expand dialogue with members of the legal profession who may deal with the Tribunal primarily through consultation with the Tribunal's recently reconstituted legal advisory committee.

- Identify and update Tribunal practices and procedures to facilitate the Tribunal's processes or which may require revision to reflect legislative or regulatory changes or recent case law relevant to adjudicative tribunals.

Conclusion

This statement details FSCO's proposed initiatives and projects for 2009 and provides a report back on key initiatives from 2008. Throughout the development of these priorities, we recognize our responsibility and commitment to our stakeholders to exercise care and to be accountable for the use of resources entrusted to us.

FSCO continues to benefit from strong partnerships with stakeholders to achieve its objectives. We look forward to working with our many partners in the upcoming fiscal year to achieve our objectives and meet the challenges of our current financial environment.

Bob Christie
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Financial Services Commission of Ontario and
Superintendent of Financial Services

John Solursh
Chair,
Financial Services Commission of Ontario and
Chair, Financial Services Tribunal